

**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: August 31, 2021

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

August 31, 2021 at 1:00 p.m.

1.	<u>21-22106</u> -B-13 CHERI GRAY Peter G. Macaluso	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 7-9-21 [<u>14</u>]
----	--	--

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on July 6, 2021. While the delinquent installment was paid on July 9, 2021, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

August 31, 2021 at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 7, 2021, at 1:00 p.m.**

First, Debtor is delinquent \$5,442.00 as of August 12, 2021. The last payment was received on June 30, 2021. 11 U.S.C. § 1307(c)(4). This is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Second, a hearing on confirmation of Debtor's first amended plan was heard on June 1, 2021, and confirmation was denied. Debtor has failed to file, set, and serve an amended plan to date. This is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 3, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 7, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 7, 2021, at 1:00 p.m.

The court will issue an order.

3. [21-22354](#)-B-13 CAROLYN HARRIS
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-9-21 [[12](#)]

DEBTOR DISMISSED: 7/13/21

Final Ruling

The case was dismissed on July 13, 2021, for failure to timely file documents. The order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the minutes.

The court will issue an order.

4. [21-20762](#)-B-13 CHRISTOPHER ANTELLAS MOTION TO DISMISS CASE
[RDG](#)-2 Michael K. Moore 8-11-21 [[32](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to deny the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss the case on grounds that the Debtor failed to file, set, and serve an amended plan after an earlier plan was denied confirmation on May 18, 2021.

The Debtor filed an amended plan on August 25, 2021, and the confirmation hearing is set for October 5, 2021. There is no unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause does not exist to dismiss this case. The motion denied and the case is not dismissed.

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 7, 2021, at 1:00 p.m.**

Debtors have failed to file, set, and serve an amended plan after an earlier plan was denied confirmation on June 8, 2021. They have also failed to file an amended Schedule C after the Trustee's objection to exemptions was sustained on June 15, 2021. Debtors have caused an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 3, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 7, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 7, 2021, at 1:00 p.m.

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 7, 2021, at 1:00 p.m.**

Debtor has failed to file, set, and serve an amended plan after an earlier plan was denied confirmation on June 1, 2021. This is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 3, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 7, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 7, 2021, at 1:00 p.m.

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 7, 2021, at 1:00 p.m.**

First, Debtor is delinquent \$1,822.00 as of August 11, 2021. The last payment was received on May 27, 2021. 11 U.S.C. § 1307(c)(4). This is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Second, Debtor has failed to file, set, and serve an amended plan after an earlier plan was denied confirmation on June 1, 2021. This is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 3, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 7, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 7, 2021, at 1:00 p.m.

The court will issue an order.

8. [21-21585](#)-B-13 DAVID DAVES
George T. Burke

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-9-21 [[27](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$84.00 installment when due on June 29, 2021. While the delinquent installment was paid on July 15, 2021, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

9. [21-21489](#)-B-13 ARTHUR MENDOZA AND MOTION TO DISMISS CASE
[RDG-3](#) CONSUELO LEYVA MENDOZA 8-12-21 [[63](#)]
Mikalalah R. Liviakis

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 7, 2021, at 1:00 p.m.**

First, Debtors are delinquent \$3,500.00 as of August 12, 2021. The last payment was received on June 22, 2021. 11 U.S.C. § 1307(c)(4). This is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Second, Debtors have failed to file, set, and serve an amended plan after an earlier plan was denied confirmation on June 1, 2021. They have also failed to file an amended Schedule C after the Trustee's objection to exemptions was sustained on July 20, 2021. Debtors have caused an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 3, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 7, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 7, 2021, at 1:00 p.m.

The court will issue an order.

10. [21-22762](#)-B-13 FREDERICK PRINCE
[BRL](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-10-21 [[13](#)]

DEBTOR DISMISSED: 08/10/21
KARL BROWN VS.

Final Ruling

This matter was continued from August 24, 2021, to allow any party in interest to file an opposition or response to the motion for relief from stay by Friday, August 27, 2021, at 5:00 p.m. No opposition or response was filed. Therefore, the court's conditional ruling at dkt. 22, shall become the court's final decision. The continued hearing on August 31, 2021, at 1:00 p.m. is vacated.

The motion is ORDERED GRANTED IN PART AND DENIED IN PART for reasons stated in the minutes of August 24, 2021, dkt. 22, which are further amended as stated hereinbelow.

The motion concerns real property located at 1029-1045 N. El Dorado Street, Stockton, California ("Property"). The motion states that Movants (as defined in the minutes of August 24, 2021) foreclosed on the Property on July 30, 2021. To the extent Movants foreclosed on the Property, they are no longer "a creditor whose claim is secured by an interest in [] real property" as required by 11 U.S.C. § 362(d)(4). So in addition to the absence of evidence of a scheme to hinder or delay, Movants lack the requisite § 362(d)(4) standing. The request for relief under § 362(d)(4) is therefore denied on this additional basis.

The court will issue an order.